Department of Motor Vehicles

As required by section 207 of the State Administrative Procedure Act, the following is a list of rules that were adopted by the Department of Motor Vehicles in calendar years 2002, 2007 and 2012 which must be reviewed in calendar year 2017. Public comment on the continuation or modification of these rules is invited and will be accepted for 45 days from the date of publication in the State Register. Comments may be directed to: The Department of Motor Vehicles, Counsel’s Office, 6 ESP, Room 522A, Albany, NY 12228.

2012

MTV-48-11-00003 - Part 8- Waives CDL skills test for certain veterans.

Analysis of the need for the rule: Pursuant to 49 CFR 383.77, this regulation waives the CDL skills test for veterans if such person demonstrates the requisite experience in operating commercial motor vehicles, as set forth in the federal regulation. This regulation is still necessary and fulfills an objective of assisting individuals who have served in the military to obtain jobs driving commercial motor vehicles.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 502(4)(b), 502(4)(f), 508(1), 508(4) and 49 CFR 383.77.

MTV-48-11-00009 Part 141 – Internet Based Accident Prevention Course.

Analysis of the need for the rule: This amendment clarifies certain requirements related to the Internet based accident prevention course. It establishes the scope of such course for a provider that did not offer a classroom accident prevention course prior to April 16, 2005, but now wishes to offer an on-line course. In order to prevent fraud, the rule also strengthens the proofs of identity of course participants. This rule remains necessary to insure the integrity of the Internet based course.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 399-l and 399-n.

MTV-13-12-0004 Part 79 - Light Vehicle Diesel Inspections.

Analysis of the need for the rule: This rule requires OBD II inspections of model year 1997 or newer light-duty diesel passenger cars and trucks, or light-duty diesel vehicles. This rule remains necessary as part of the State’s commitment to abate air pollution from vehicle exhaust systems.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 301(a)(f), 302(a)(c) 304(b) and 304-a.

MTV- 41-12-00012 - Part 134 Drinking Driver Program.

Analysis of the need for the rule: Persons convicted of alcohol-related offenses may be eligible for a conditional license. This regulation provides that a person would not be eligible for a conditional license if such person has two or more alcohol-related convictions within the preceding 25 years. In addition, the regulations provides that completion of the Drinking Driver Program, now called the Impaired Driver Program, would not serve to terminate a suspension or revocation arising from an alcohol-related conviction if the person has two or more alcohol-related convictions within the preceding 25 years. This proposed rule was part of a comprehensive package adopted by the DMV to address the problem of recidivist DWI offenders. The highway safety justification for this rule is still valid.

Legal basis for the rule: Vehicle and Traffic Law section 215(a), 1196(5) and 1196(7)(a).

MTV-41-12-00013 - Part 136 Relicensing After Revocation/Problem Driver Restriction.

Analysis of the need for the rule: The regulation was and is necessary to address the problem of recidivist drunk drivers. The rule made it more difficult for multiple DWI offenders to have their licenses restored after revocation. These amendments remain necessary and critical to the DMV’s mission of keeping dangerous drivers off of our State’s highways.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 501(2)(c), 510(6)(a), 1193(2)(b)(12), 1193(2)(c) and 11949(2)(d)(1).

MTV-41-12-00016 - Part 3 A2 Restriction.

Analysis of the need for the rule: This regulation authorizes the Commissioner of Motor Vehicles to issue an A2 problem driver restriction for persons with multiple DWI offenses and whose licenses are restored. The restriction subjects the licensee to the driving restrictions of the holder of a restricted use license and may require the installation of an ignition interlock device in all motor vehicles owned or operated by the licensee. The rule remains necessary and critical for the DMV’s efforts to address recidivist drunk driving.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 501(2)(c).

2007


Analysis of the need for the rule: This rulemaking was necessary to provide that recidivist alcohol-related offenders who are not otherwise eligible for the Drinking Driver Program (now known as the Impaired Driving Program) shall not have their licenses restored upon completion of the DDP if enrollment in the DDP was mandated by the court pursuant to plea bargaining provisions set forth in Vehicle and Traffic Law section 1192(10). Multi-offenders must show proof of rehabilitation, among other criteria, prior to approval for re-licensure. In addition, an amendment to Part 136 provides that persons convicted of VTL sections 1192(2-a) and (4-a) shall be assigned negative units as part of the DMV’s review of an application for re-licensure. An applicant with 25 or more negative units is denied re-licensure. These amendments remain necessary as part of the DMV’s highway safety mission.

Legal basis for rule: Vehicle and Traffic Law sections 215(a), 510(6)(a), (1192(10)(a) and (d)), 1193(2)(c)(1), 1196(4) and (7)(a).

MTV-13-07-00016 - Part 8 Waiver of Road and Written Tests.

Analysis of the need for the rule: The amendment provides that, in most cases, the road and written tests shall be waived if the application for re-licensure is submitted within two years of the date the applicant was last validly licensed. Previously, the application had to be
submitted within one year of the date the applicant was last validly licensed. The rule aligns with Vehicle and Traffic Law section 502(4)(b), which provides that a license may be renewed if the application for renewal is filed within two years from the date of the expiration of the prior license. This rule eliminates approximately 2,800 road and written tests annually, consequently reducing the workload of the DMV while not diminishing highway safety. The need for the rule remains.

Legal basis for rule: Vehicle and Traffic Law sections 215(a), 502(4)(a)(i), (b), (f), 508(1) and (4)


Analysis of the need for the rule: Pursuant to Chapter 686 of the Laws of 2006, rear object detection devices were required to be installed in all multi-vans and garbage trucks operating in Westchester County. The devices mandated by this regulation serve to decrease injuries and fatalities suffered by workers working on such vehicles during the course of their duties. The need for the rule remains.

Legal basis for the rule: Vehicle and Traffic Law section 215(a) and 375(10)(f).

MTV-30-07-00003 - Part 135- Restricted Use Licenses.

Analysis of the need for the rule: This regulation was necessary to conform to Chapter 571 of the Laws of 2006, regarding the suspension or revocation of a driver’s licenses for right of way violations resulting in serious physical injury or death. Persons convicted of such offenses are not eligible for a restricted use license. In addition, the rule prohibits the issuance of a restricted use license where an underlying adjudication, conviction or finding involves a fatal accident. These rules remain necessary as part of the DMV’s highway safety mission and, in part, to conform to statutory mandates.

Legal basis for the rule: Vehicle and Traffic Law section 215(a) and 530(9).

MTV-39-07-00009 - Parts 127 and 139 Chemical test refusal hearings.

Analysis of the need for the rule: This rule set forth specific guidelines regarding the adjournment of hearings related to refusing to submit to a chemical test. The rule provides that, in most cases, when a motorist requests an adjourned hearing, such motorist’s license will remain suspended pending an adjourned hearing, unless the Administrative Law Judge finds that there is no detriment to the public safety. The purpose of the regulation is to protect the motorist. The rule remains necessary.

Legal basis for the rule: Vehicle and Traffic Law section 215(a) and 1194(2)(c) and (e).

MTV-43-07-00009 - Part 124.5 Evidentiary Rules for Traffic Violation Bureau Hearings.

Analysis of the need for the rule: This rule excluded business records introduced at TVB hearings from the constraints set forth in Crawford v Washington, 124 S. Ct. 1354(2004) and People v. Pacer, 6 NY3d 504(2006). These cases held that the preparer of records produced for testimonial purposes in criminal cases must be subject to cross examination. This rule provides that in administrative TVB hearings, business records, such as documents introduced in overweight truck cases, are not subject to testimony by the preparers of such records, but may be introduced by the police officer who issued the ticket and testifies at the hearing. Such officer is subject to cross examination and his/her credibility is assessed by the presiding judge. This rule was necessary to conserve time and resources for the high volume hearings conducted in TVB.

Legal basis for the rule: Vehicle and Traffic Law section 215(a), 225(1), (3) and 227(1).

2002

MTV-40-02-00005 - Part 5 Periodic Vision Requirements.

Analysis of the need for the rule: Prior to the adoption of this regulation, DMV’s visual acuity test for license applicants, conducted outside of a DMV Office, could only be administered by a physician, optometrist, ophthalmologist, optician or a registered nurse. This regulation added physician assistant to those permitted to perform the eye exam. This rule is still beneficial, for customers as a convenience, and for DMV, which encourages motorists to renew their licenses online or by mail.

Legal basis for rule: Vehicle and Traffic Law sections 215(a), 502(4)(a)(i) and 502(6).

MTV-43-02-00003 - Part 34 Termination of Liability Insurance.

Analysis of the need for the rule: This regulation was necessary for the efficient and accurate reporting of the cancellation of for-hire insurance. When DMV required that all for-hire registrations expired on February 28, insurance companies were not required to report cancellations of insurance because a registration would not be renewed if proof of insurance could not be produced. In 2002, when the Department staggered for-hire registration periods, insurance and registration periods were no longer coterminous. Thus, we promulgated this regulation requiring insurers to report the cancellation of for-hire insurance to DMV, which in turn notifies the insured that his or her registration will be revoked if insurance is not obtained. Since this staggered registration procedure is still in effect, this regulation remains necessary.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 370(1)(b).

MTV-28-02-00010 - Part 46 School Bus Stop Arm.

Chapter 430 of the Laws of 2001 provided that all school buses manufactured on or after January 1, 2002 must be equipped with a rear side arm on the driver’s side of the bus. This regulation was promulgated to establish school bus stop arm standards. Since the statutory requirement is still in effect, this regulation remains necessary.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 375(21-c).

MTV-43-02-00002 - Part 46 Reflective Markings on School Buses.

Analysis of the need for the rule: Chapter 425 of the Laws of 2001 provided that school buses transporting 10 or more passengers must be equipped with reflective markings. This regulation was promulgated to reflect this statutory mandate. Since the statute is still in effect, the regulation remains necessary.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 375(21-h).

MTV-31-02-00009 - Part 58 Rear View Mirrors and Real Object Detection Devices.

Analysis of the need for the rule: Chapter 83 of the Laws of 2001 required that certain trucks be equipped with rear object detection devices. This regulation set forth standards for cross view mirrors, rear view systems and other rear object detection devices. Since the statute is still in effect, the regulation remains necessary.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 375(10-e).

MTV-22-02-00008 - Part 59 Reflective Tape on In-Line Skates.

Analysis of the need for the rule: Chapter 18 of the Laws of 2000 required the Commissioner to establish standards for reflective material on in-line skates. This regulation set forth standards that were developed in consultation with the International Inline Skating Association. Since the statute is still in effect, these regulations remain necessary.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 1239.

MTV-41-02-00010/MTV-29-02-0001 - Part 102 Low Speed Vehicles.

Analysis of the need for the rule: Chapter 585 of the Laws of 2001 authorized the use of low speed vehicles (LSVs) on certain highways and required the Commissioner to promulgate regulations regarding such vehicles. This regulation set forth equipment standards for LSVs, provided that they must comply with odometer tampering requirements and provided that dealers must disclose information to customers about the operation of LSVs and hazards related thereto. Since LSVs are still sold and operated in New York State, this regulation remains necessary.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 121-f, 2262 and 2270.
MTV-16-02-00004 - Part 131 - Point System and Cell Phones.

Analysis of the need for the rule: The Department assigns points for various violations of the Vehicle and Traffic Law and similar local laws. When the cell phone law was originally enacted, the Department did not assign points. However, when the risks associated with distracted driving became apparent, the Department assigned points for cell phone violations. Currently, five points are assigned for such violations.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 510(3)(i).

MTV-12-02-00003 - Part 136 Licensing After Revocation Action.

Analysis of the need for the rule: A person whose license is revoked must apply to DMV for re-licensure pursuant to the criteria set forth in Part 136. The Department assigns negative units for violations of the Vehicle and Traffic Law and the Penal Law, and if an applicant has 25 or more such units, his or her application will be denied. In 1983, the Department amended Part 136 to provide that crimes involving homicide or criminally negligent homicide arising out of the use of a motor vehicle shall be assessed negative units. The Department failed to include crimes involving assault arising out of the use of a motor vehicle. This regulation included such crimes in the negative unit scheme and remains a valid tool in the application evaluation process.

Legal basis for the rule: Vehicle and Traffic Law section 215(a), 510(5) and 510(6)(a).